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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/599,933

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Hermann Neuhaus-Steinmetz

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EXAMINER

GAWORECKI, MARK R

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/599,933	Applicant(s) NEUHAUS-STEINMETZ ET AL.	
	Examiner MARK R. GAWORECKI	Art Unit 2884	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,4-6 and 8-21 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/13/06, 10/20/06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 101

1. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. Claims 11-17 and 21 are rejected under 35 U.S.C. 101 because the claims are directed to neither a "process" nor a "machine," but rather embraces or overlaps two different statutory classes of invention set forth in 35 U.S.C. 101 which is drafted so as to set forth the statutory classes of invention in the alternative only. *Id.* at 1551.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claim 12 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Specifically, the claim specifies that a photodiode is used to generate the light. However, it is unclear as to how a photodiode, which is conventionally understood to be a photosensitive device, would be used to generate light.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 11-17 and 21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. **Note:** A single claim which claims both an apparatus and the process of using the apparatus is indefinite under 35 U.S.C. 112, second paragraph. Ex parte Lyell, 17 USPQ2d 1548 (Bd. Pat. App. & Inter. 1990).

With further respect to claim 16, the claim first states irradiating with "exclusively UVC radiation", and with electromagnetic radiation of a shorter wavelength. It is unclear whether this claim is meant to mean that this is done in two steps, as the term "exclusively" would seem to indicate that no other wavelength is used, including electromagnetic radiation of a shorter wavelength.

Claim Objections

5. Claims 17 and 18 objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 17 specifies a light source which can be switched over to emit light with two or more different wavelengths, which is already recited in the claim from which it depends. Claim 18 specifies an iron oxide opacifier, which is already recited in the claim from which it depends.

Claim Rejections - 35 USC § 102

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Trumble (3,787,687).

With respect to claim 1, Trumble shows a UV-sensitive radiation film (abstract) comprising a radiation sensitive layer (11), with covering films on both sides (base, 13 and filter, 14).

With respect to claim 10, Trumble teaches using adhesive to attach the radiation-sensitive film (12) to a covering film (13) (column 4, lines 3-10)

8. Claims 1, 4, 8, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tomita *et al.* (4,829,187).

With respect to claim 1, Tomita shows a UV-sensitive radiation film (abstract) comprising a radiation sensitive layer (2), with covering films on both sides (support, 1 and protective layer, 3).

With respect to claims 4 and 19, Tomita shows the coating of radiation-sensitive material to be 0.5 to 20 micrometers (column 5, lines 61-66).

With respect to claim 8, Tomita shows depositing (coating) the radiation sensitive material onto the support (column 5, lines 27-36).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 5, 6, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trumble.

With respect to claims 5 and 20, Trumble does not disclose the specific dimensions for allowing particular percentages of incident UV radiation to reach the radiation-sensitive material. However, Trumble teaches varying the thickness of the filter for altering the amount of UV radiation reaching the radiation-sensitive material (column 4, lines 24-26).

With respect to claim 6, Trumble teaches the films on either side of the radiation material to be composed of plastic, coated paper, or both (column 4, lines 3-7; column 4, lines 21-24).

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trumble, in view of Wheeler (3,652,854).

With respect to claim 9, Trumble, as applied above, does not show adhesive on an outward-facing side of one of the covering films. However, adhesive is commonly used to attach dosimeter devices to a user or equipment, and would have been obvious to one having ordinary skill in the art at the time

the invention was made. Wheeler is cited as an example of such a dosimeter (abstract).

12. Claims 11, 13, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trumble, in view of "Using Radiachromic Dosimeters" by Far West Technology (cited by applicant).

With respect to claim 11, Trumble, as applied above, does not show testing the transmittance of a dosimeter using multiple wavelengths. Far West Technology shows results of radiation response tests as a function of absorbed dose (related to transmittance, with two wavelengths, Fig. 4). With respect to the light source which can be switched between two wavelengths, such multiple wavelength light sources are commonly known and conventionally used in the art. It would have been obvious to one of ordinary skill in the art at the time the invention was made to use any suitable light source for testing transmittance at multiple light sources in order to achieve data such as that shown by Far West Technology.

With respect to claims 13 and 21, the prior art of record, as applied to claim 11 above, does not show providing a mechanism for moving the dosimeters being tested. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to automate the movement of materials being tested, since it has been held that broadly providing a mechanical or automatic means to replace manual activity which has

accomplished the same result involves only routine skill in the art. *In re Venner*, 120 USPQ 192.

Allowable Subject Matter

13. Claims 14-16 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph and 35 U.S.C. 101, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

14. Claims 2, 3 and 7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

15. The following is a statement of reasons for the indication of allowable subject matter:

With respect to claims 2 and 3, the prior art of record, as applied above, does not disclose or reasonably suggest the use of pararosaniline nitrile dye or an iron oxide opacifier.

With respect to claim 7, the prior art of record, as applied above, does not show the use of a vapor-deposited metallic reflective layer as a reflective layer.

With respect to claims 14 and 15, the prior art of record, as applied above, does not show reading and displaying radiation dosage as a function of position, specifically in terms of mJ/cm^2 .

With respect to claim 16, the prior art of record, as applied above, does not show the use of UV-C radiation to test the optical transmittance of a film.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MARK R. GAWORECKI whose telephone number is (571)272-8540. The examiner can normally be reached on Monday through Thursday, 7:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Porta can be reached on (571) 272-2444. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/MG/
9 April 2008

/David P. Porta/
Supervisory Patent Examiner, Art Unit 2884